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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 FRED BEEMAN,

9 Plaintiff,

10 CASE NO. C13-5822 RBL-JRC

11 v.

12 ORDER

13 STEVEN THAYER.

14 Defendant.

15 The Court having reviewed the Report and Recommendation of the Hon. J. Richard
16 Creatura, objections to the Report and Recommendation, if any, and the remaining record, does
17 hereby find and Order:

- 18 (1) The Court adopts the Report and Recommendation;
- 19 (2) The Court dismisses this action prior to service because defendant, a
20 criminal defense attorney, does not act under color of state law. Further,
21 plaintiff may not challenge his conviction through a civil rights action.
22 This dismissal is for failure to state a claim and it counts as a strike
23 pursuant to 28 U.S.C. 1915(g).
- 24 (3) The Court revokes in forma pauperis status for purpose of appeal.

25 DATED this 5th day of December, 2013.

26 
27 RONALD B. LEIGHTON

28 UNITED STATES DISTRICT JUDGE